

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

ROBERT F. KENNEDY, JR.,

Plaintiff,

v.

Docket No.

DAVID VICKREY,

Defendant.

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT, DISTRICT OF NEW HAMPSHIRE

Defendant David Vickrey, pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446, hereby respectfully files this Notice of Removal of this action to the United States District Court, District of New Hampshire, from the Superior Court, in and for Rockingham County. In support of this Notice of Removal, Mr. Vickrey states as follows:

1. Mr. Vickrey is the Defendant in a civil action brought in the Superior Court in the State of New Hampshire, Rockingham County, captioned Robert F. Kennedy, Jr. v. David Vickrey, Case No. 218-2023-CV-01019 (the “State Court Action”).

2. On or about October 3, 2023, Mr. Vickrey was served with a copy of the Summons and Complaint in the State Court Action. Pursuant to 28 U.S.C. § 1446(a), Mr. Vickrey is filing herewith a copy of the Summons and Complaint served on Mr. Vickrey by Plaintiff. (Exs. A and B.)

3. Mr. Vickrey has not yet filed an Answer or other responsive pleading in the State Court Action. This Notice of Removal is filed within thirty (30) days after receipt by Mr.

Vickrey of a copy of the initial pleading setting forth the claim upon which such action or proceeding is based, as required by 28 U.S.C. § 1446(b).

4. The State Court Action is a suit of a wholly civil nature brought in the Superior Court in the State of New Hampshire, Rockingham County. The United States District Court for the District of New Hampshire is therefore the proper forum and venue to which this action may be removed under the provisions of 28 U.S.C. § 1441(a).

5. This District Court has original jurisdiction to entertain this action pursuant to 28 U.S.C. § 1332(a) because the parties to this case are citizens of different states, and because the plaintiff alleges that his damages exceed the sum of \$75,000.00, exclusive of interest and costs:

- a. Plaintiff resides and is domiciled in New York, with a mailing address in San Diego, California.
- b. Mr. Vickrey resides and is domiciled in Cape Elizabeth, Maine.
- c. Plaintiff has alleged and demanded from Mr. Vickrey damages in excess of \$75,000.

6. Removal of this action is neither prohibited by 28 U.S.C. §1445 nor §1441(b)(2).

7. Pursuant to 28 U.S.C. § 1446(d), Mr. Vickrey will give notice of this Notice of Removal to Plaintiff and will file a copy of this Notice of Removal with the clerk of the Superior Court of the State of New Hampshire, in and for Rockingham County, promptly after he has filed this Notice of Removal with this Court.

8. Pursuant to 28 U.S.C. §1447(d) and Local Rule 81.1, Mr. Vickrey will request that the Clerk of the Rockingham Superior Court provide certified or attested copies of all records and proceedings in this action and certified or attested copies of all docket entries thereon. Mr. Vickrey will cause such attested or certified copies of the record from the State

Court Action to be filed with this Court within fourteen days hereof as required by Local Rule 81.1.

WHEREFORE, Defendant David Vickrey respectfully requests that the above-referenced action now pending in the Superior Court of New Hampshire, in and for Rockingham County, be removed from that Court and to the United States District Court for the District of New Hampshire.

Respectfully submitted,

DAVID VICKREY

By His Attorneys,

MORRISON MAHONEY LLP

Date: 10/31/2023

By _____
/s/ Brian A. Suslak
Brian A. Suslak, #269917
bsuslak@morrisonmahoney.com
Center of New Hampshire Office Tower
650 Elm Street, Suite 201
Manchester, NH 03101
Phone: 603-622-3400
Fax: 603-622-3466

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on October 31, 2023.

/s/ Brian A. Suslak
Brian A. Suslak, #269917

Exhibit A

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

SUPERIOR COURT
218-2023-CV-01019
DOCKET NO.: _____

ROBERT F. KENNEDY, JR.,

Plaintiff

-vs-

DAVID VICKREY,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Robert F. Kennedy, Jr. ("Plaintiff" or "Mr. Kennedy"), by and through his undersigned attorneys, hereby complain against defendant DAVID VICKREY ("Defendant" or "Mr. Vickrey") as follows:

NATURE OF THE CASE

1. Mr. Kennedy is many things, including: the scion of a storied Democratic American family, an author, an environmentalist, an attorney, a Presidential candidate, a founder of a leading public health organization (Children's Health Defense), and a public advocate. He raises funds for, advocates on behalf of, and personifies public advocacy. Like his father, Mr. Kennedy often takes stands on behalf of underdog causes and ignored communities, which can be upsetting to those with disparate power.

2. Defendant published an article on the website *Daily Kos* in which Defendant falsely claimed that Mr. Kennedy collaborated with neo-Nazis, joined and spoke at a protest organized by neo-Nazis in Berlin. Defendants' statements about Mr. Kennedy are false, and defamatory. Mr. Kennedy fought, not collaborated with, fascistic attitudes and prejudices, and the protest he spoke at was organized by civil rights groups, not neo-Nazis. As his custom and following in his father's tradition, Mr. Kennedy advocated for civil rights for the less fortunate and those often ignored by the people in power at that Berlin protest.

3. Defendant was well-aware when he published these statements that they were not true. Indeed, the very paper claimed to be the source of his smear, the German daily newspaper *Der Tagesspiegel*, contradicted the defamatory statements. Nonetheless, Defendant deliberately mistranslated the German article, and instead published the false and defamatory statements knowing the statements were false, knowing the false and inflammatory headline would smear and libel Mr. Kennedy across the globe, knowing few would research the veracity of the information in his cited source, and cause Mr. Kennedy, and the organizations he fights for, substantial reputational harm, especially in New Hampshire.

4. The lie heard 'round the world formed the foundation for many lies thereafter, often referring back to, reciting, or resurrecting this corpse of Defendant's defamatory falsehood, to continually cause Mr. Kennedy injury to this very day in New Hampshire. Indeed, the Defendant continued to highlight his article over the last month, continued to share his articles sharing public statements falsely accusing Mr. Kennedy of "Nazi-adjacent political antics in Germany" based on the NFD party sponsor protest lie, and sought to harm Mr. Kennedy's public reputation before testifying to Congress and the reaction of the New Hampshire public. Mr.

Vickrey continues to circulate, republish, and broadcast the libels in New Hampshire, including just a few days ago on his Daily Kos site and social media feeds.

5. Mr. Kennedy files this action to publicly establish the truth, obtain a correction and retraction, rehabilitate his name and reputation, and seek appropriate remedies for the harm caused by Defendant's intentionally false statements.

PARTIES

6. Plaintiff Mr. Kennedy is, and at all times relevant hereto, has been a resident of New York, as has a mailing address of 600 West Broadway, Suite 1400, San Diego, CA 92101.

7. Defendant David Vickrey ("Mr. Vickrey") has a mailing address of 5 Hamlin Street, Cape Elizabeth, ME 04107, and published the statements complained of herein in New Hampshire, to a New Hampshire audience, to do damage to Mr. Kennedy in New Hampshire. Mr. Vickrey worked for many years in Nashua, New Hampshire, as the vice President for SkillSoft. A German native speaker and graduate of the University of Freiburg and Harvard, Mr. Vickrey has ongoing ties with China, as an equity partner for Cloudskills Online, and lists Beijing City, China a current operating address. Mr. Vickrey also has ties to SeaBridge Advisors, LLC, with ties to the northeast, including Maine. Mr. Vickrey is not a resident of New Hampshire and published his statements in New Hampshire to the Daily Kos' New Hampshire readers.

JURISDICTION AND VENUE

8. The Superior Court has jurisdiction over this matter pursuant to RSA 498:1.

9. Venue is proper in Rockingham County because the effects of Defendants' tortious conduct have occurred in the County of State of New Hampshire, generally, and within the County of Rockingham, specifically.

10. . Indeed, the target audience for the defamation by the Defendant is New Hampshire residents, the target injury is New Hampshire reputational impairment, and the published statement is targeted at and published to the people of New Hampshire. To this day, the Defendant's refusal to retract or correct reflects a desire to damage Mr. Kennedy in New Hampshire particularly.

FACTUAL ALLEGATIONS

11. On or about August 29, 2020, Defendant published an article under the pseudonym Downeast Dem on the website Daily Kos to New Hampshire residents with this defamatory and false headline: "Anti-Vaxxer RFK JR. joins neo-Nazis in massive Berlin 'Anti-Corona' Protest" (the "Defamatory Article"). The foregoing statements are false. The article has not been corrected nor retracted, and still is present for New Hampshire readers to this very day. The Defamatory Article further states: "The protest was organized by right-wing extremist organizations - including the AfD party and various anti-Semitic conspiracy groups as well as the neo-Nazi NPD party. Among the speakers was Robert F. Kennedy Jr., who warned against the 'totalitarianism' of Angela Merkel." Mr. Kennedy did not "join[] neo-Nazis" at a protest in Berlin, nor did Mr. Kennedy speak at a "protest [] organized by right-wing extremist organizations, including the AfD party and various anti-Semitic conspiracy groups as well as the neo-Nazi NPD party." Mr. Kennedy is a civil rights leader and critic against fascistic programs.

12. In truth, Mr. Kennedy gave a speech at a protest for peace and freedom in Berlin on August 29, 2020, initiated by the group Querdenken—a civil rights, democratic movement whose name means "lateral thinking" and who vehemently oppose all forms of fascism and extremism. Querdenken took great pains to assure that extremists from every position were excluded from its protest in Berlin. The single source cited by Defendants in the Defamatory

Article, the German daily newspaper *Der Tagesspiegel* confirms the success of Querdenken's efforts and the falsity of Defendants' statements, including:

- There were "several corona-related gatherings on this day," organized by different groups—not one uniform demonstration;
- The various demonstrations took place at different times and in different places throughout Berlin-Tiergarten (an area that expands over two square miles);
- A person interviewed during one of the demonstrations said she had not seen any neo-Nazis in the crowd;
- Mr. Kennedy spoke at around 4 pm at the Brandenburg Gate and there were Hare Krishna supporters dancing in the audience;
- Around the time Mr. Kennedy was speaking, right-wing extremists gathered at a separate demonstration in front of the Reichstag.

13. Despite requests from Mr. Kennedy, Defendant, seeking to negatively influence the opinion of New Hampshire residents about Mr. Kennedy, refused to correct, retract, apologize or take down the Defamatory Article, and it remains actively published to this day. The article is a lie, led by a headline that lies, and littered with statements within it that are lies. It seeks to libel Mr. Kennedy, a global champion for civil rights with a lifetime legacy committed to civil rights for all in public health, the environment, the economy, the courts, and governance.

COUNT I

LIBEL

14. Mr. Kennedy realleges and incorporates by this reference Paragraphs 1 through 13 of this Complaint as though fully set forth therein.

15. The Defamatory Article is not privileged and is false and defamatory. Mr.

Kennedy alleges on information and belief that the Defamatory Article was intended by Defendant to directly injure Mr. Kennedy with respect to Mr. Kennedy's professional reputation, character, trade and business, especially concerning the organizations and causes Mr. Kennedy advocates and fundraises for, and especially in New Hampshire.

16. The Defamatory Article is susceptible of a defamatory meaning on its face in that it has a direct tendency to injure Mr. Kennedy with respect to his reputation, character, trade and business. As the Defendant knew, Mr. Kennedy did not collaborate with, join, or speak at an event organized by the neo-Nazi party NPD.

17. Mr. Kennedy alleges on information and belief that at the time Defendant published the Defamatory Article, he knew the Article was false. Mr. Kennedy is informed and believes and based thereon alleges that the Defamatory Article was disseminated with actual malice, with the knowledge that it was false. This is because the very publication cited by the Defendant actually rebutted the false smears made by the Defendant.

18. The Defamatory Article exposes Mr. Kennedy to hatred, contempt, ridicule and obloquy, with a tendency to injure him in his reputation and occupation as a public advocate in New Hampshire especially. The article makes one of the world's leading civil rights organizers to appear to be anti-civil rights, and to defame and damage any organization Mr. Kennedy works for or, fundraises for, or publicly advocates for in their target audience, especially in New Hampshire.

19. As a direct and proximate result of the above-described conduct by Defendant, Mr. Kennedy suffered general and special damages in an amount in excess of \$1 million, including damage to Mr. Kennedy's reputation and standing in the community, ability to raise funds for the public advocacy he fundraises for, and his public standing that directly impacts the

organizations he represents, fundraises for, and advocates on behalf of.

20. Mr. Kennedy is informed and believes and based thereon alleges that the aforesaid acts of Defendants were done intentionally or with a conscious disregard of his rights, and with an intent to vex, injure or annoy him, such as to constitute oppression, fraud or malice, thus entitling him to exemplary and punitive damages in an amount appropriate to punish or set an example of Defendant and to deter such conduct in the future, which amount will be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, Mr. Kennedy demands judgment against Defendants as follows:

1. For general, special, punitive, and exemplary damages from Defendants in an amount to be determined at the time of trial, but believed to be not less than the jurisdictional minimum of this Court, together with interest thereon at the maximum legal rate.
2. For recovery of costs in connection with this suit.
3. For such further and other relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a jury trial in this action on all issues and claims triable to a jury.

RIGHT TO AMEND

Plaintiff reserves the right to amend this Complaint to add additional causes of action and to name additional Defendants after discovery.

Respectfully submitted,

Robert F. Kennedy, Jr.
By his attorney,

Dated: August 28, 2023

/s/ Jason M. Sullivan, Esq.

Law Office of Jason M. Sullivan, PLLC
One New Hampshire Avenue, Suite 125
Portsmouth, NH 03801
jsullivan@lojms.com
(603) 433-1325 (tel.)
(603) 436-7388 (fax.)
NH Bar No.: 14360

Exhibit B

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Rockingham Superior Court
Rockingham Cty Courthouse/PO Box 1258
Kingston NH 03848-1258

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

SUMMONS IN A CIVIL ACTION



Case Name: **Robert F. Kennedy, JR v David Vickrey**
Case Number: **218-2023-CV-01019**

Date Complaint Filed: August 29, 2023

A Complaint has been filed against David Vickrey in this Court. A copy of the Complaint is attached.

The Court ORDERS that ON OR BEFORE:

- | | |
|-----------------------------------|--|
| October 28, 2023 | Robert F. Kennedy Jr shall have this Summons and the attached Complaint served upon David Vickrey by in hand or by leaving a copy at his/her abode, or by such other service as is allowed by law. |
| November 18, 2023 | Robert F. Kennedy Jr shall electronically file the return(s) of service with this Court. Failure to do so may result in this action being dismissed without further notice. |
| 30 days after Defendant is served | David Vickrey must electronically file an Appearance and Answer or other responsive pleading form with this Court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below. |

Notice to David Vickrey: If you do not comply with these requirements you will be considered in default and the Court may issue orders that affect you without your input.

Send copies to:

Jason M. Sullivan, ESQ

Law Offices of Jason M Sullivan PLLC 1 New Hampshire Ave
Ste 125 Portsmouth NH 03801
15 Hamlin Street Cape Elizabeth ME 04107

David Vickrey

BY ORDER OF THE COURT

September 13, 2023

Jennifer M. Haggar
Clerk of Court

(1082)

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Rockingham Superior Court
Rockingham Cty Courthouse/PO Box 1258
Kingston NH 03848-1258

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE TO DEFENDANT

Case Name: **Robert F. Kennedy, JR v David Vickrey**
Case Number: **218-2023-CV-01019**

You have been served with a Complaint which serves as notice that this legal action has been filed against you in the **Rockingham Superior Court**. Review the Complaint to see the basis for the Plaintiff's claim.

Each Defendant is required to electronically file an Appearance and Answer 30 days after service. You may register and respond on any private or public computer. For your convenience, there is also a computer available in the courthouse lobby.

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.state.nh.us, select the Electronic Services Icon and then select the option for a self-represented party.

1. Complete the registration/log in process. Click Register and follow the prompts.
2. After you register, click Start Now. Select **Rockingham Superior Court** as the location.
3. Select "I am filing into an existing case". Enter **218-2023-CV-01019** and click Next.
4. When you find the case, click on the link and follow the instructions on the screen. On the "What would you like to file?" screen, select "File a Response to Civil Complaint". Follow the instructions to complete your filing.
5. Review your Response before submitting it to the court.

IMPORTANT: After receiving your response and other filings the court will send notifications and court orders electronically to the email address you provide.

A person who is filing or defending against a Civil Complaint will want to be familiar with the Rules of the Superior Court, which are available on the court's website: www.courts.state.nh.us.

Once you have registered and responded to the summons, you can access documents electronically filed by going to <https://odypa.nhcourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

If you have questions regarding this process, please contact the court at 1-855-212-1234.